

Notice of Allowability

Application No.

10/069,307

Examiner

QUYNH-NHU H. VU

Applicant(s)

INGENITO, EDWARD

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 10/20/09.
2. ☒ The allowed claim(s) is/are 1, 3-14, 17-34, 55-58, 69-70, 72.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dana M. Gordon on 10/20/09.

The application has been amended as follows:

1. (Currently Amended) A method for reducing lung volume in a patient, the method comprising:

(a) advancing a bronchoscope into the vicinity of a diseased alveolar region of a lung targeted for volume reduction in a patient; and

(b) introducing material through the bronchoscope into the diseased alveolar region thereby reducing the volume of the diseased alveolar region; wherein said material induces collapse of the diseased alveolar region; said material promotes adhesion between one collapsed diseased alveolar region of the lung and another; and said material promotes fibrosis in or around the collapsed diseased alveolar region of the lung-; wherein the material comprises fibrin or fibrinogen.

14. (Currently Amended) A method for performing lung volume reduction, the method comprising introducing material through an airway of a patient into a diseased alveolar region of the patient's lung to:

(a) collapse the diseased alveolar region;

(b) adhere one portion of the collapsed diseased alveolar region to another; and

(c) promoting fibrosis in or around the collapsed diseased alveolar region of the lung-; wherein the method is performed using a bronchoscope; wherein collapse of the diseased alveolar region of the lung is achieved by administering a substance that increases the surface tension of fluids lining the alveoli in the targeted region; wherein the substance is fibrinogen or fibrin.

Art Unit: 3763

15. (Canceled)

16. (Canceled)

17. (Currently Amended) The method of claim ~~46~~ 14, wherein the substance is fibrinogen.

18. (Currently Amended) The method of claim ~~46~~ 14, wherein the substance is fibrinogen.

55. (Currently Amended) A method for reducing lung volume in a patient, the method comprising:

introducing a material into a diseased alveolar region of a patient's lung, thereby collapsing the diseased alveolar region and reducing the volume of the lung; wherein the material comprises an anti-surfactant, or an adhesive, or a combination thereof; reducing airflow into and out of the diseased alveolar region; wherein the material is introduced through a trachea or a smaller airway of a patient.

57. (Canceled)

58. (Canceled)

63. (Canceled)

69. (Currently Amended) The method of claim ~~57~~ 55, comprising occluding a trachea, bronchus, bronchiole or other airway of the lung.

Allowable Subject Matter

Claims 1, 3-14, 17-34, 55-58, 69-70, 72 are allowed.

Claims 2, 15-16, 35-54, 59-68, 71 and 73 are canceled.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh-Nhu H. Vu whose telephone number is 571-272-3228. The examiner can normally be reached on 6:00 am to 3:00 pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D Lucchesi/
Supervisory Patent Examiner, Art Unit 3763

Quynh-Nhu H. Vu
Examiner
Art Unit 3763